

## PLAN AND ZONING COMMISSION MEETING

PZ\_AF\_02-26-2019

Chairperson Erickson called to order the Ashworth Corridor Commission Workshop of the Plan and Zoning Commission at 5:32 p.m. on Monday, February 26, 2019, in the Council Chambers of the West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines.

Roll Call: Andersen, Costa, Crowley, Erickson, Hatfield, Southworth.....Present  
Drake.....Absent

1. Minutes of the meeting of November 19, 2019 were provided to the Commissioners for review as needed.
2. Chairperson Erickson introduced the topic as an item presented as a public hearing for rezoning on November 19, 2019. At that time, there were quite a few comments by the public, so the purpose of this meeting is to dig into the subject more deeply. He advised that the Commission would not have public discussion, but would be open to brief comments, as long as new information was being presented. The record reflecting the earlier comments is clear and the Commission takes it very seriously.
3. Development Services Planner Ms. Marren provided information regarding the amendment and was available for questioning. The discussion would address two key areas:
  - a. Ashworth Road & 88<sup>th</sup> Street
  - b. Ashworth Road and Jordan Creek Parkway

It was agreed that there would be a brief break between discussion items.

### **Item 3a – Ashworth Road and 88<sup>th</sup> Street -**

Ms. Marren informed that the area near Ashworth Road and 88<sup>th</sup> Street currently has a land use designation of Office. Current zoning is Unzoned. Staff are proposing both land use and zoning be changed to Community Commercial. This encompasses an area of 15 acres to the north of Ashworth Road, 24 acres at the southeast corner of Ashworth and 88<sup>th</sup> Street. Ms. Marren explained the comp plan and zoning definition of what CMC is intended to be and compared the proposed sites to existing community commercial areas for scale and perspective.

A Community and Neighborhood Commercial area map was presented showing dispersal through the community. Permitted and conditional uses in CMC were presented. Chairperson Erickson observed that if this area is rezoned to Community Commercial and Commercial use comes in, the developer would not be required to put in a buffer, because that requirement was previously on the residential side, and the owners requested to have it removed primarily to put fences on the back of their lots. Ms. Marren affirmed this to be true.

Ms. Marren presented a concept site plan image of how the access and drainage might be applied to the site if a CMC project were to be assembled.

Commissioner Crowley asked if the waterway has been the subject of a Waterway study or will that be required. Ms. Marren responded that it has not been done.

Chairperson Erickson asked the audience for additional comments from the public. He noted that the Commission had heard about traffic issues relative to 84<sup>th</sup> street and that residents did

## PLAN AND ZONING COMMISSION MEETING

not want commercial zoning next to their residential area. Chairperson Erickson asked if there were any new concerns which residents did not feel were adequately addressed last time.

James Ziska, 964 84<sup>th</sup> Street, informed that he is one of the residents who will border this commercial project. Mr. Ziska outlined history pertaining to the buffer and his desire as a new homebuilder to have it negated and informed that he felt a lack of communication from the City resulted in him having a buffer he did not want. He requested that a buffer be placed on the commercial side and include some type of transition between the residential and commercial.

Chairperson Erickson questioned whether Staff has a letter signed by the property owners acknowledging the removal of the buffer. Development Services Coordinator Linda Schemmel informed that the application was from multiple property owners, and Staff requested that one person to be designated as the primary contact for the group of homeowners. The planner on staff communicated the information about the associated land use and changes to the primary contact who was responsible to convey to the property owners to make sure they understood that a buffer would not be required on the adjoining property. Once the buffer is vacated, it's not required anymore. Chairperson Erickson stated that somewhere we have signatures from existing property owners requesting this action. There's no requirement on the residential owners, that's been removed. But there's also no longer a buffer.

Mr. Ziska returned to the podium with a letter which he provided to Chairperson Erickson.

Bridget Johnson, 881 84<sup>th</sup> Street asked if there's been substantial land ownership changing since 2017, and whether the commission would take that into consideration. Chairperson Erickson stated that the decision goes with the land with a sale; it is recorded with the property.

Chairperson Erickson informed that the Commission needed to determine from staff whether they could encumber the adjoining property with a buffer which someone else removed. We may not have the right to do that to another owner. He noted that he understood the homeowner's perspective, however there may be some legal aspects which limit the Commission's decisions.

Ms. Johnson continued with a recommendation of buffering toward the drainage. Chairperson Erickson responded that he wasn't sure the Commission could encumber that owner at this time.

Chairperson Erickson commented that he had accepted the letter from Mr. Ziska and it would be made part of the record. He informed that the letter was from Planner Brian Portz, alerting Dan Randall as the contact person about the easement and also informing that the property to the west is designated Office but that there was discussion about changing that to Community Commercial. Brian has communicated back to those properties' owners through this contact.

Commissioner Andersen asked Ms. Marren why the commercial development doesn't require a buffer. Ms. Marren responded that at one point the residential area was Office use, and when Aspen Valley came in and downzoned to single family, the burden of the buffer went to the residential properties to buffer from the office use. Office adjacent to office does not require a buffer between two areas. Commissioner Andersen commented that it seems kind of crazy that the buffer requirement would be on the residential side and not on the commercial.

Chairperson Erickson inserted that he thought it was common for downzoning, because with that request, the applicant is causing an additional encumbrance on one property, when that owner wasn't required to have a buffer previously.

## PLAN AND ZONING COMMISSION MEETING

Commissioner Southworth asked if, at one time, all of those properties were owned by one titleholder. Director Twedt responded they were not, there have been and still are multiple owners in that area.

Commissioner Crowley asked to view the site sketch again. Director Twedt asked the Commissioners to keep in mind that if the drainage way was piped, offices could be constructed all the way to the east, as close as the 15 feet setback for proposed parking. The developer could not put a building over that pipe, but parking would be allowed. Commissioner Costa asked what the building setback would be. Director Twedt stated it would be a 50-foot setback.

Commissioner Costa noted that he would think the commission would be sympathetic and if a developer came with a site plan, they would encourage some type of buffering. He would recommend the homeowners come in and voice their concerns at that time. However, he stated if the site plan came in without any buffering, he would have a hard time forcing a future developer to re-encumber this buffer after having it vacated.

Chairperson Erickson asked if there's the equivalent of a city-required PUD that could be considered here, so they could have more performance standards, where they could see a concept plan. Ms. Marren responded that is typically done when a project comes in and you're addressing what that concept looks like and what their site plan might be. With this being a city request and only changing the land use at this time, there isn't a PUD concept right now where we can write what that language is.

Commissioner Hatfield asked if all the land on the left is currently owned by one owner. Ms. Marren stated it is not. Commissioner Hatfield continued, noting that with individual owners, there would need to be consolidation for this type of site plan to develop. When the buffer was vacated, prior to it being sold to the residents everything was Office, and everything to the West was also Office. It's being changed to commercial. It seems that the Commission can recommend that there be a buffer on the newly requested commercial property. With the depth of the properties on the East side, with a 30 foot buffer and a 10 foot utility easement, he stated he could see why it made sense for them to get rid of it. Now we're dealing with a new area, and he thought they should recommend a 30-foot buffer.

Chairperson Erickson questioned whether it was within the Commission's purview within the zoning code to recommend a buffer on the commercial side.

Commissioner Hatfield recommended asking the City to determine what the legal options are.

Chairperson Erickson agreed. As the Commission was not voting tonight, one of the outcomes of the discussion tonight can be an exploration. He stated that direction to staff is that the Commission's desire is to discuss the potential establishment of a buffer there. Commissioner Costa presented the other side of the situation is that a developer of the commercial property is now being required to give up ground to provide a buffer that was already provided but the owners when zoning was changed but is now required again as the property owners chose to vacate the buffer on the residential side. The owners on both sides have rights.

Commissioner Costa stated that having been through this a few times, as a developer, he would work with the homeowners to come up with a solution, through the site plan approval process, this Commission would then have the authority to enforce that.

Commissioner Hatfield commented that he thought it comes down to ownership of that lot. If it's a single owner and he's being asked to put a buffer in that he didn't expect, that's different

## PLAN AND ZONING COMMISSION MEETING

from establishing a buffer now to separate single family from commercial use and make that recommendation.

Commissioner Crowley inserted that he believed that's as far as we can go tonight.

Chairperson Erickson stated that the Commission was comfortable going forward with Commercial designation. The amount of Office ground designated for this part of the community has been over the amount the market will sustain. As we continue to see the explosion of residential around here, the commercial uses proposed are a benefit to the neighborhood.

Chairperson Erickson asked when this item will come back to the Plan & Zoning Commission for action. Ms. Marren responded that we will review upcoming meeting dates and place it on an agenda and will re-notice the public hearing.

Commissioner Hatfield recommended adding a park there. Chairperson Erickson noted that there is a comprehensive park plan that identifies the best locations and he thought that if there were a need for a park it would be designated there. There is a park at 81<sup>st</sup> and EP True Parkway.

6:10 pm BREAK

### **Item 3b - Ashworth & Jordan Creek Parkway**

Ms. Marren noted that this area is at the SW corner of JCP and Ashworth. Existing land use is Medium density, existing zoning is currently Unzoned. Staff are proposing 5 acres of office, with the remaining 14 acres Single Family Residential or density restricted Medium Density. She stated that it comes down to the traffic study; proposed zoning would be Office at the corner and R-1 Single Family Residential for the balance of the area.

Ms. Marren presented a sketch of the 19.1 acres, including two access points through for the 76<sup>th</sup> Street extension, and a possible RIRO onto Jordan Creek Parkway. Chairperson Erickson asked about another area for a RIRO to the north of Ashworth by the bank and the office buildings, but Director Twedt stated it would likely be too close to the intersection, but a traffic analysis would determine. Ms. Marren informed that Staff are trying to avoid capsizing that intersection, therefore, Staff determined 5 acres of Office could be accommodated.

Ms. Marren listed land use scenarios and trip generation information provided by the Traffic Study. Staff still maintains that the existing medium density is viable there, or there could be a combination of single family or multi-family, but the traffic study shows a need to limit the number of trips that can be generated. She stated that the Office request came out of some subcommittee discussions, and the committee was interested in waiting for a developing opportunity before changing the land use.

Commissioner Costa asked Ms. Marren to explain "capsizing." Ms. Marren responded that it's a calculation of level of service determined by the current traffic number of trips in addition to those anticipated to be generated by a specific use.

Ms. Marren presented a timeline of subcommittee discussions with the residents who were interested in Office use.

Chairperson Erickson summarized that in review we did hear last time fairly strongly that their property has changed dramatically based on the scale of the roadways and surrounding development. They are concerned about their access and maintaining their properties. The

## PLAN AND ZONING COMMISSION MEETING

difficulty seems to be that it's not as simple as one property owner selling, there needs to be an aggregation and a developer ready to proceed. Doing the rezoning in advance of that is one answer, but in essence by doing that, there's a transfer of development rights that goes with that. If the Commission says some lots are in Office and some in Single family, it transfers the trips from one lot to another. He commented that he thought this will have to be developer driven and the owners will have to give up their rights. He agreed with the owners as far as the impact to their properties due to the adjacent roads.

Commissioner Hatfield asked if the larger vacant ground, 1/3 of the property, was a single owner. Ms. Marren replied that it is, as well as the two frontage lots. Commissioner Hatfield asked if that owner was present or represented here tonight.

Dan Stanbrough, 1409 Main Street, Grimes, stated he was present with his son-in-law Tim Miller. He said they had purchased from Betty Gerberich about six months ago 10 acres comprised of lots 880, 890 and 910. He mentioned the growth on this street is so dynamic nationally, that the composite of this corner should be developer driven with a unity of the properties that makes it something the City's proud of. He recommended leaving the site unzoned until something comes along. He didn't think single family makes sense in this area, with the growth along Jordan Creek Parkway and Ashworth Road. Considering neighbors that have their own timing, he asked if the zoning could be phased. It's got to be fair to everybody.

Chairperson Erickson asked whether Mr. Stanbrough would oppose the idea that we would rezone several of those lots as office, and zone it from multi-family to single family, adding that he was interpreting that Mr. Stanbrough would not support that.

Mr. Stanbrough noted that Office use is a great neighbor; it's maintained, everybody goes home at 5 pm. He thought the traffic side of it needed to be studied and determined what's best for the City stating that this is the front door of the City.

Chairperson Erickson reiterated that what he heard Mr. Stanbrough say is that this should remain in the current Zoning and wait to be developer driven. Dan stated he didn't think we can anticipate the market, and to zone it in now doesn't accomplish anything. He suggested putting some development effort into what that composite could look like. Chairperson Erickson responded that the Commission recommends to Council and they make the ultimate decision.

Chairperson Erickson asked if there was anyone who would like to offer any additional information.

Rick Stussman, 7450 Ashworth Road, informed that he thought the whole thing needs to be developed as one piece. All of the owners back in 2000 worked together to request a change in the density to higher density, which City Council stopped. He questioned the low traffic count for the 20 acres on the busiest intersection of the City. He mentioned an earlier Traffic Study performed in 2000 which determined that Office would be no problem. The changes that have happened are due to the City widening the road in front of them, there's a planned interchange West of them which will add to the busyness, and 76<sup>th</sup> Street will need a streetlight in order for residents to get out. If the back half of the area is developed, he said he felt the single-family homes would be left as an island with no way to get out.

Chairperson Erickson inserted that there's always a requirement for a connected drive. It comes through with every site plan. While it's not directly serving you, it would be once the property is developed. He stated that he didn't think rezoning it right now helps anyway. Keeping it Unzoned is probably best.

## PLAN AND ZONING COMMISSION MEETING

Commissioner Costa stated that coming from the developer's standpoint, it's a real challenge to deal with all of these owners. He asked Mr. Stussman if he had spoken with the other owners. Mr. Stussman said he had in 2001. Commissioner Costa asked what Mr. Stussman would see as the catalyst for redeveloping this area. Mr. Stussman said he believed it would be the City working with the developer and saying yes. He added that having a PUD would be great.

Commissioner Costa mentioned a large project which was unable to proceed with their first choice of land site due to two homeowners who hung up that project from going in where the first choice was. He questioned how Mr. Stussman would get all the owners to agree. Mr. Stussman responded that he believed if the right plan came up, the owners would work together. We know our value is decreasing. Commissioner Costa commented that having all of these driveways off this street doesn't make sense. Mr. Stussman stated in early 2000' that they were informed by City staff that it would be retail/commercial. The owners went with everything the City Staff wanted them to, however he believed Council held them up.

Commissioner Costa asked Mr. Stussman the size of his lot. Mr. Stussman informed that it's 0.58 acres. It was 1.3 prior to the road being widened.

Chairperson Erickson informed the residents that he heard what they were saying. He stated he wasn't sure this is a zoning solution. He commented that if the owners came in and wanted to create a PUD, it would work its way through the system. It's the chicken and the egg. He questioned whether they could get a developer interested if it wasn't guaranteed that the properties were available.

Chairperson Erickson questioned whether the rezoning helps most of the property owners, and is it fair to the remaining property owners. Mr. Stussman concluded that his recommendation would be to leave it unzoned.

Commissioner Hatfield commented that the homeowners have a unique situation. Over 50% of the ground is owned by Mr. Stanbrough, which is different from 6 months ago. He stated that he drove the neighborhood and looked at it this morning; observing homes for sale along there and driveways which haven't been cleaned in a long time. It's an opportunity for a developer but the Commissioner agreed with Chairperson Erickson and with Ms. Stussman that it should stay unzoned. He questioned whether there might be a political way to resolve this. Mr. Stussman agreed, if Council would address it. He stated that he's been to the Plan & Zoning Commission four times now and is still at the same spot. He added that the owners had initiated a zoning change so someone could see it as developable.

Kevin Johnson, 7550 Ashworth Road, informed the Commission that the property left untended is a rental, and that construction in the area has left it unrentable. He recommended putting the area out there on radar as a commercial site to be developed. Chairperson Erickson responded that it would be for Office, rather than Commercial, and he thought there would still be problems that have to be solved for the developer regarding access, etc.

Director Twedt cautioned that unless Council is willing to accept a level of service F, which goes against Comprehensive Plan, you cannot make the whole area commercial or office because it will capsize the intersection. She stated that it would take a very deliberate action by Council to do anything but the 5 acres of office with the balance as residential. Chairperson Erickson added that there's a variety of things that could happen.

Commissioner Hatfield asked the Director's opinion about creating a PUD. Director Twedt responded that it could be put into a PUD when details are known, however it's going to be very difficult for the City if the property owners don't come together and want to develop it

## PLAN AND ZONING COMMISSION MEETING

collectively. The City would not be able to hold up one area from developing because the other area wasn't in agreement.

Commissioner Costa inserted that every owner would have to be a party to the PUD. Director Twedt agreed and added that if anything comes through, Staff will ask how the whole area will be developed so we don't end up with undevelopable ground.

Commissioner Costa stated that he completely agreed with Dan Stanbrough; this is a corner that needs to be utilized, but there's no quick or easy fix. No developer is going to want to work with 10-12 owners. If the group can come together and come up with reasonable pricing, they could present that to the world. Creating a PUD is the easy part, assembling the properties is the hard part. Commissioner Crowley added to also find the right user.

Chairperson Erickson asked Ms. Marren if there was anything further she required.

Ms. Marren clarified that the Commission's recommendation was to keep current land use as medium density and leave the zoning Unzoned. Chairperson Erickson agreed.

Chairperson Erickson adjourned the meeting at 6:41 p.m.